

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
v.)	Cause No. 4:05-cr-15-SEB-MGN
)	
DEAN O. CART,)	
)	
Defendant)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is before the undersigned U.S. Magistrate Judge pursuant to the Order entered by the Honorable Sarah Evans Barker, U.S. District Court Judge, on January 9, 2014, designating the Magistrate Judge to conduct a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed with the Court on January 9, 2014 (hereinafter "Petition") and to submit to Judge Barker proposed Findings of Facts and Recommendations for disposition under Title 18 U.S.C. ' ' 3401(i) and 3583(e) and (g).

The Court conducted the following procedures in accordance with Rule 32.1 of the *Federal Rules of Criminal Procedure* and 18 U.S.C. ' 3583.

1. At the Initial Hearing on October 17, 2014 regarding the Petition, the Court advised Defendant of his rights and provided him with a copy of the petition. CJA Counsel, Patrick J. Renn, was appointed to represent the defendant.

2. On October 23, 2014, the Court held a hearing on the Petition. Defendant appeared in person and with his appointed counsel. The government appeared by Todd S. Shellenbarger, Assistant U.S. Attorney. U.S. Probation appeared by Officer Ross Carothers.

3. After being placed under oath, Mr. Cart, by counsel, stated his readiness to waive the preliminary examination and proceed with the revocation hearing. Mr. Cart then waived, on the record, the preliminary hearing.

4. Mr. Cart admitted to Violation No. 2 of the Petition. The Government orally moved to dismiss Violation Nos. 1, 3 and 4 of the Petition and the Court granted the same

5. The allegation to which Defendant admitted, as fully set forth in the Petition is:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
2	<p>“The defendant shall not commit another federal, state or local crime.”</p> <p>On October 17, 2013, the probation officer received information from the Salem Police Department indicating the offender had been banned from the Rite-Aid drug store in Salem for three years due to alleged inappropriate behavior of a sexual nature. Specifically, he showed an employee a picture of a nude woman on his mobile phone and touched an employee in an inappropriate manner. Probation officers searched the offender’s residence the same day and found several pornographic magazines, a pornographic DVD in the DVD player, and an unreported cell phone which contained an image of nude adults and prepubescent males. A state search warrant was requested by the Salem Police Department and the Washington County Circuit Court issued the search warrant. The offender’s cell phone was seized for data extraction and the results are pending. Mr. Cart was arrested the same day and charged with one count of Possession of Child Pornography (88C01-1310-FD-000741).</p>

6. The parties stipulated into evidence Government’s Exhibit 1 indicating Defendant was convicted of a criminal offense in the Washington Circuit Court on December 5, 2013.

7. The parties jointly agree to recommend a sentence of time served in custody (from the date of arrest until the signing of the Revocation Judgment by the District Judge); the additional Special Condition of Supervision of residing for six (6) months at the Volunteers of America Facility in Evansville, Indiana, in accordance with all facility rules; and all other Special

Conditions of Supervision currently employed by this District. Further, the defendant shall not self-surrender but will be transported to the VOA facility by the U.S. Marshal.

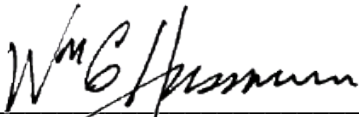
8. The parties jointly agreed that recently amended conditions of supervision (attached hereto) be made a part of the Judgment of Conviction and shall apply prospectively.

The Magistrate Judge, having considered the factors in 18 U.S.C. 3553(a), and as more fully set forth on the record, finds that the Defendant violated the above-delineated condition of his supervised release, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of time served. Thereafter, Defendant shall return to Supervised Release for life under the conditions previously imposed, as well as an additional condition of residing for six (6) months at the VOA facility in Evansville. Defendant shall also comply with the amended Special Conditions of Supervision currently employed in this District. The defendant will be transported to the Volunteers of America facility in Evansville by the U.S. Marshal upon entry of the Revocation Judgment in this case.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

WHEREFORE, the U.S. Magistrate Judge **RECOMMENDS** the Court adopt the above Report and Recommendation revoking Dean O. Cart's supervised release.

IT IS SO RECOMMENDED this 24th day of October, 2014.



William G. Hussmann, Jr., Magistrate Judge
United States District Court

Distribution:

All ECF-registered counsel of record

U.S. Marshal

U.S. Probation Office